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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,722	07/24/2000	K Scott Kammerer	12328	5223

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03/28/2003

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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/621,722

Applicant(s)

KAMMERER ET AL.

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 – 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Burrow et al., USPN 5,214,821.

Burrow et al. discloses a low contamination swab employing tubular knit fabric, that is comprises a handle (Figure 1 (10)), a cleaning head (Figure 1 (12)), a grasping end (lower portion of Figure 1 (10)), a securing region on the cleaning head (Figures 1-6), and a cleaning tip (Figure 3 (34)) formed by a plurality of *compressed* polyester fibers (Column 2, Lines 9-14) *that forms a substantially rigid, elongated cleaning head*. Burrow et al. provides several methods for securing the cleaning tip to the handle such as friction fit (Column 4, Lines 22-28 and Figure 6), an adhesive (Column 4, Lines 28-30), or by heat (Column 5, Lines 34-38.)

2. Claims 1, 5, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Discko, Jr., USPN 5,001,803.

Discko, Jr. discloses a handle having a longitudinal axis (Figure 2 (31), Figure 3 (42), Figure 4 (51)), each handle having a cleaning head end (Figure 2 (32), Figure 3 (43), Figure 4 (52)) and a grasping end (Figure 2 (31), Figure 3 (42), Figure 4 (51A) (51B)), the cleaning head end defining a securing region (Figures 6, 8, 10 display how

bristles are compressed by clamping in hollow cavity; Column 4 Lines 1-5), a cleaning tip (bristles (34)) that are substantially rigid and form an elongated cleaning head.

Discko, Jr. discloses that the cleaning tip may be secured to the handle by adhesive (Column 4 Lines 4-5.) Further disclosed, the handle is a hollow tubular member (Figures 6-10) and the cleaning tip has a dimension and shape for inserting into the bore (Column 4 Lines 1-5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Discko, Jr., USPN 5,001,803 in view of Gorthala et al., USPN 6,007,655.

Discko, Jr. discloses all previously mentioned elements, however does not disclose that pulling the fibers through a die formed the plurality of fibers.

Gorthala et al. discloses apparatus for and method of producing thick polymeric composites. Gorthala et al. describes the method "pultrusion" as applied to thermoplastics (Column 1 Lines 11-35.)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the "pultrusion" process described by Gorthala et al. to produce the compressed fibers (that form a substantially rigid, elongated cleaning head)

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and apply that process to Discko, Jr. as a means to have a more densely packed cleaning head.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrow et al., USPN 5,214,821 in view of Kachigian, USPN 5,084,005.

Burrow et al. discloses all previously mentioned elements, however does not disclose an ultrasonic welding process to secure the cleaning tip to the handle.

Kachigian discloses a swab that comprises a handle (Figures 1-3 (21)), a cleaning head (Figures 1-2 (33)), a grasping end (Figures 1-3 (29)), a securing region (Figure 4), and a cleaning tip (Figures 1-4 (32)) formed of a plurality of fibers. Further Kachigian discloses (Column 5, Lines 41-48) that a swabbing tip may be secured to a rigid handle structure by ultrasonic welding.

It would have been obvious to one of ordinary skill in the art to secure the cleaning tip by ultrasonic welding as Kachigian teaches in order to keep debris, dust particles, or bacteria from the cleaning tip which can be disruptive in electro-mechanical components.

5. Claims 8, 9, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrow et al., USPN 5,214,821 in view of Bozarjian, USPN 6,187,104.

Burrow et al. discloses previously mentioned elements but does not disclose a tether.

Bozarjian discloses a cleaning implement and method that has a tether secured to the handle-grasping end (Figures 1, 2, and 4 (14), Column 3, Lines 7-13, and Column

3, Lines 60-65) and the tether is secured through a handle bore (Figure 1 (23)). The tether may be removable (Column 3, Lines 60-65) or permanent (Column 5, Lines 27-29.) It would have been obvious for one of ordinary skill in the art to apply the teachings of Bozarjian in including a removable or permanent tether to the swab so that the swab is always nearby or on hand when cleaning.

6. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Disco, Jr., USPN 5,001,803 in view of Gradone, USPN 3,712,296.

Disco, Jr. discloses all previously mentioned elements, but does not disclose a tether disposed between an external gripping portion and the handle.

Gradone discloses a swab device that has a handle (Figure 1 (10)), a cleaning head end (Figure 1 (12)), a grasping end (Figure 1 (14)), a securing region (shaded region of Figure 2), and a cleaning tip (Figure 1 (12)). Gradone further discloses a grip portion mounted externally (Figure 1 (16)) on the handle, the grip portion is provided so as to avoid human contact with the handle, which is desired in the medical field (Column 2 Lines 49-52).

It would have been obvious for one of ordinary skill in the art to attach an external grip portion to a handle, as it may be desired to avoid the possibility of transferring dust or human oils when working with electro-mechanical devices in a clean room.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Disco, Jr., USPN 5,001,803 in view of Gradone, USPN 3,712,296, and in further view of Lisowski, USPN 5,937,473.

Discko, Jr. and Gradone disclose all previously mentioned elements, but do not disclose a tether disposed between an external gripping portion and the handle.

Lisowski teaches a tether or "wrist loop" (Figures 1-2 (17)) being disposed between a grip portion and handle.

It would have been obvious to one of ordinary skill in the art to add a tether to the swab devices of Discko, Jr. and Gradone so that the swab will always be nearby, hooked, or worn around the wrist.

Applicants Arguments

8. Applicant states:

A. The art of record fails to disclose each element of the claimed invention in that none of the art of record discloses the pull-truded cleaning head.

B. The art of record fails to make obvious the claimed invention in that none of the art of record discloses the pull-truded cleaning head.

Applicant makes the same argument in response to the 35 USC 102 and the 35 USC 103 rejections.

Response to Arguments

9. Applicant's arguments filed 10 February 2003 have been fully considered but they are not persuasive.

The applicant's claims are directed towards the final product, a swab. Therefore the method of the method of forming the device by "pulling fibers through a die" is not

germane to the issue of patentability of the device itself. This limitation has not been given patentable weight.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (703) 305-7279. The examiner can normally be reached on Monday-Thursday, 7am - 4:30pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8772 for regular communications and (703) 873-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

LCC

LCC
March 17, 2003

Robert J. Warden, Sr.

ROBERT J. WARDEN, SR.
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